

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MARIE ROSE FINAZZO,)	CIVIL NO. 05-00524 JMS-LEK
)	
Plaintiff,)	
)	
vs.)	
)	
HAWAIIAN AIRLINES,)	
)	
Defendant.)	
_____)	

**ORDER GRANTING DEFENDANT'S MOTION TO AMEND THE COURT'S
ORDER GRANTING DEFENDANT HAWAIIAN AIRLINES INC.'S
MOTION FOR LEAVE TO USE AND DISCLOSE PLAINTIFF'S
CONFIDENTIAL HEALTH INFORMATION FILED SEPTEMBER 11, 2006**

On January 24, 2008, Defendant Hawaiian Airlines, Inc.'s ("Defendant") filed its Motion to Amend the Court's Order Granting Defendant Hawaiian Airlines Inc.'s Motion for Leave to Use and Disclose Plaintiff's Confidential Health Information filed September 11, 2006 ("Motion to Amend").¹ Plaintiff Maria Rose Finazzo ("Plaintiff") filed her memorandum in opposition to the Motion to Amend on February 8, 2008, and Defendant filed its reply on February 22, 2008. Plaintiff filed an additional memorandum in opposition on February 25, 2008. The Court finds

¹ The motion is titled "Motion to Reopen Civ. No. 05-00524 JMS LEK and to Amend the Court's Order Granting Defendant Hawaiian Airlines Inc.'s Motion for Leave to Use and Disclose Plaintiff's Confidential Health Information filed September 11, 2006". On January 25, 2008, this Court denied Defendant's request to reopen the litigation, finding that, even after the entry of judgment, district courts have continuing jurisdiction to modify their orders.

this matter suitable for disposition without a hearing pursuant to Rule LR7.2(d) of the Local Rules of Practice of the United States District Court for the District of Hawaii ("Local Rules"). After careful consideration of the Motion to Amend, supporting and opposing memoranda, and the relevant legal authority, Defendant's Motion to Amend is HEREBY GRANTED for the reasons set forth below.

DISCUSSION

On March 16, 2006, this Court filed the parties' Stipulation for Protective Order and Order ("Protective Order"). The Protective Order prohibited the parties from using or disclosing Plaintiff's confidential health information for any purpose other than the instant lawsuit, including any appeal.

On July 14, 2006, Defendant filed its Motion for Leave to Use and Disclose Plaintiff's Confidential Health Information ("Motion to Disclose"). On September 11, 2006, this Court filed its order granting the Motion to Disclose ("Disclosure Order"). The Disclosure Order modified the Protective Order to permit Defendant to, *inter alia*, use the information identified in the Motion to Disclose internally and disclose it to the Federal Aviation Agency ("FAA").

In the instant Motion to Amend, Defendant states that it received additional confidential health information during discovery after the filing of the Motion to Disclose. Defendant

wishes to use the information internally and also believes that it has a duty to disclose the additional health information to the FAA. Defendant asks this Court to extend the scope of the Disclosure Order to allow it to use the additional health information internally and to disclose the additional health information to the FAA.

Having carefully read and considered all of the relevant evidence and memoranda presented, the Court finds that: 1) Plaintiff did not establish good cause for continuing protection as set forth in the Protective Order under the standard set forth in Foltz v. State Farm Mutual Automobile Insurance Co., 331 F.3d 1122 (9th Cir. 2003); and 2) Defendant established a compelling need to modify the Protective Order under the standard set forth in Minpeco S.A. v. Conticommodity Services, Inc., 832 F.2d 739 (2d Cir. 1987).

CONCLUSION

On the basis of the foregoing, Defendant's Motion to Amend the Court's Order Granting Defendant Hawaiian Airlines Inc.'s Motion for Leave to Use and Disclose Plaintiff's Confidential Health Information filed September 11, 2006, is HEREBY GRANTED. The Stipulation for Protective Order and Order, filed March 16, 2006 is hereby further modified to permit Defendant to: 1) disclose the health information cited in the Motion to Amend (including all memoranda filed in support of the

Motion to Amend) to the FAA; and 2) use and disclose the health information the information to operate its business, investigate misconduct, and discipline employees in a consistent manner in accordance with its company policies and labor agreements.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, March 12, 2008.



/S/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States Magistrate Judge

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JMS-LEK; ORDER GRANTING DEFENDANT'S MOTION TO AMEND THE COURT'S
ORDER GRANTING DEFENDANT HAWAIIAN AIRLINES INC.'S MOTION FOR
LEAVE TO USE AND DISCLOSE PLAINTIFF'S CONFIDENTIAL HEALTH
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